

REMARKS

Summary

Claims 1 and 26-36 are pending. Claims 1 and 26-29 are amended and claims 30-36 are added. No new matter is added.

Claim Objections

Claims 1 and 27-29 are objected to for various informalities. The claims have been amended herein to correct the identified language.

102(e) Rejections of claims 1 and 26

Claims 1 and 26 are rejected under 35 USC 102(e) as being unpatentable over US Patent No. 6,793,632 to Sohrab (Sohrab). Applicants respectfully traverse the rejection in light of the amendments to the claims and the remarks below.

Claim 1, and new independent claim 32, recite in part a method of measuring an analyte concentration comprising providing an analyte sensing element having an indicating electrode covered by an absorbent layer forming an exterior surface of said analyte sensing element; and introducing said analyte sensing element into soft tissue of said animal body, thereby placing said absorbent layer into contact with said animal body soft tissue and said body fluid.

Sohrab is cited for teaching a method of measuring an analyte concentration in a body fluid, but fails to teach, at least, (1) introducing into an animal body an analyte sensing element having an indicating electrode covered by an absorbent layer forming an exterior surface of the analyte sensing element, thus (2) placing the absorbent layer into contact with animal body soft tissue and body fluid.

Sohrab teaches an absorbent layer disposed on the interior of and encapsulated by an electrode. The device of Sohrab draws fluid at the micro-needle tip into the interior of the electrode for sensing. Thus, the absorbent layer is also not in contact with both animal body soft tissue and body fluid.

Therefore, Sohrab fails to teach at least one element of claim 1, and new claim 32, and thus claims 1 and 32 are patentable over Sohrab. Applicants thus respectfully request reconsideration and withdrawal of the rejection.

Claims 26-35 are dependent on either claim 1 or 32, directly or indirectly, incorporating their features, and thus claims 26-35 are patentable over Sohrab for at least the reasons discussed above.

In addition, claim 1 and new claim 33 recite the removal of the sensing element prior to activation of the sensing element for measurement purposes. As indicated in the Office Action, Sohrab fails to teach removing the electrode. The Office Action indicates that removal of the electrode is inherent, since the device is not permanently implanted. However, claims 1 and 33, recite not only removal, but removal prior to activation of the sensing element. This distinction is not taught by Sohrab.

The configuration of the sensing element and the operations recited in claim 1 provide for a method in which the sensing element may be introduced into an animal body, saturated with body fluids, and then removed for measurement purposes. Such a method allows for the measurement operations to occur outside the body, limiting the time the sensing element is indwelling and thus limiting user/patient discomfort.

New claim 36 contains language similar to that of claims 1 and 32, and is thus patentable over Sohrab for at least the reasons discussed above.

103(a) Rejections of Claims 27-29

Claim 27 is rejected under 35 USC 103(a) as being unpatentable over Sohrab in view of US Patent No. 4,953,552 to DeMarzo (DeMarzo). Claims 28-29 are rejected under 35 USC 103(a) as being unpatentable over Sohrab in view of US Patent No. 6,083,710 to Heller (Heller).

Claims 27-29 depend directly on claim 1, incorporating the features of claim 1. Therefore, as claim 1 is patentable over Sohrab, so are claims 27-29, by virtue of at least their dependency. Since DeMarzo and/or Heller do not remedy the above discussed deficiencies of Sohrab, claims 27-29 are patentable over Sohrab alone or in combination with DeMarzo or Heller.

Conclusion

In view of the foregoing, Applicant respectfully submits that claims 1 and 26-35 are in condition for allowance, and early issuance of the Notice of Allowance is respectfully requested.

If the Examiner has any questions, he is invited to contact the undersigned at (503) 796-2844. Please charge any shortages and credit any overages to Deposit Account No. 500393.

Respectfully submitted,

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